

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since it consisted of tomatoes with puree from trimmings, and the labels did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard, namely, "Tomatoes with puree from trimmings."

On January 8, 1938, no claimant having appeared for the lot seized at St. Louis, judgment of condemnation was entered and it was ordered destroyed. On February 11, 1938, the Dupont Canning Co. having appeared as claimant for the lot seized at Malden, Mo., and having admitted the allegations of the libel, judgment was entered finding the product misbranded and ordering that it be released under bond conditioned that it be relabeled so as to comply with the law.

W. R. GREGG, *Acting Secretary of Agriculture.*

28536. Adulteration and misbranding of food and beverage flavors. U. S. v. 4 Dozen One-Half Ounce Bottles of Cognac (and 14 other seizures of similar products). Default decrees of condemnation and destruction. (F. & D. Nos. 41610, 41612 to 41623, incl., 41739 to 41754, incl., 41765 to 41771, incl., 41816, 41817. Sample Nos. 292-D, 293-D, 295-D, 297-D, 299-D, 300-D, 350-D, 1067-D to 1080-D, incl., 2365-D, 2369-D, 2370-D, 2371-D, 2373-D, 2375-D, 2376-D, 2378-D, 2380-D, 11341-D, 11342-D, 11344-D to 11348-D, incl., 18604-D, 18613-D.)

These products contained from 7 to 75 percent of carbitol, a solvent composed of a glycol or a glycol ether, or both, poisons. Some of the products also contained isopropyl alcohol.

On February 7, 1938, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 63 dozen bottles of various food and beverage flavors at Pittsburgh, Pa. On or about February 17 and 21, 1938, libels were filed against 38½ dozen bottles of similar products at St. Louis, Mo., and 113 dozen bottles at Los Angeles, Calif. The libels alleged that the articles had been shipped in interstate commerce between the dates of August 28, 1936, and January 4, 1938, by the Everbest Products Co. from Brooklyn, N. Y., and that they were adulterated and misbranded in violation of the Food and Drugs Act. The articles were labeled variously: "Ideal Italian Type * * * Rosolio [or other flavor] Everbest Products Company B'klyn [or "New York"]"; "Ideal Italian Extracts * * * Chartreuse Flavor * * *. For Bakery and Confectionery Use Only"; "Cognac [or other] Flavor * * * For Bakery & Confectionery Only."

The articles were alleged to be adulterated in that products containing a glycol or a glycol ether, or both, poisons—and in certain instances also containing isopropyl alcohol—had been substituted in whole or in part for food and beverage flavors, which they purported to be; and in that they contained added poisonous or deleterious ingredients, a glycol or a glycol ether, or both—and in certain instances isopropyl alcohol, which might have rendered them injurious to health.

Certain of the products were alleged to be misbranded in that the statements on the labels, "Cognac [or "Apricot," "Rosolio," "Creme de Menta," "Rum," "Anesone," "Benedictine," "Strega," "Whiskey," "Anisette," "Verdolino," or "Maraschino"] Flavor * * * For Bakery & Confectionery," were false and misleading when applied to products containing isopropyl alcohol and a glycol or a glycol ether, or both, poisons. The remaining products were alleged to be misbranded in that the following statements on the labels, "Flavor * * * Rosolio [or "Mescolanza," "Creme de Rose," "Jasmine Flavor," "Mandarino," "Perfetto Amore," "Orange," "Latte di Vecchia," "Cognac," "Creme de Menta," "Crema di Cacao," "Benedictine," "Apricot," "Verdolino," or "Mille Fiori," "Creme de Cocoa," "Maraschino," "Holland Gin," "Centerbe," "Strawberry," or "Grenadine"]," with respect to certain varieties, and the statements "Extracts * * * Chartreuse Flavor * * * For Bakery and Confectionery Use Only" with respect to one lot, were false and misleading and tended to deceive and mislead the purchaser when applied to products containing a glycol or a glycol ether, or both, poisons. They were alleged to be misbranded further in that they were offered for sale under the distinctive names of other articles, food or beverage flavors.

On March 23, March 30, and April 6, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*